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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/411,663

10/04/1999

REX R. HESTER

031523600001

8627

7590

06/16/2004

Rex R Hester  
367 Roscoe Road  
Bear Creek, NC 27207

EXAMINER

TRAN, THIEN D

ART UNIT

PAPER NUMBER

2665

10

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/411,663

**Applicant(s)**

HESTER, REX R.

**Examiner**

Thien D Tran

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 1999.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-14 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 4,5, 8, 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 8, "and/or" is indefinite.

Regarding claims 1, 4, 5, 8, 13, "such that" or "such as" is indefinite

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this

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application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-3, 7, 9-14 are rejected under 35 U.S.C. 102(e) as being participated by Petty et al (U.S Patent No 6,337,8585 B1).

Regarding claims 1, 13, Petty discloses a method of completing a quality voice telephone call between an Internet Web Page user having at least one Customer Premise Equipment (CPE) device capable of either voice or data, or both voice and data communications, including PC, telephones, work stations (multimedia PC, multimedia TV and/or other multimedia devices), to an ISP (Local Switch Access) and the advertiser of a product/service on the Web Page having CPE coupled to the same or another group of communication service which could be an ISP or switch or server such as OAM server (col.6 lines 30-65, figure 2), comprising the steps of:

coupling a OAM server for VoIP (Managed Voice-over-Internet Protocol) telephone network between said Internet Web Page user LSAP and said advertiser CPE such that a PSTN quality voice telephone conversation can take place between said Web Page user and said advertiser (col.7 lines 20-40);

using said CPE and said Internet to locate a product/service of interest to said Web Page user;  
associating an advertiser telephone number with said product/service of interest;  
and  
using said Internet to enable said VoIP system to establish at least voice and preferably voice and IP data connections between said Web Page user and said

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advertiser CPE by means of said telephone number (col.8 lines 65-67). See figures 1, 2 and 3.

Regarding claim 2, Petty discloses a method of further comprising the steps of: providing a second group of location (could be second ISP) as said advertiser CPE for establishing IP data connections with said Web Page user. See figures 6 and 7.

Regarding claim 3, Petty discloses a method of further comprising the step of providing an Internet Protocol based CPE as said advertiser CPE for receiving and transmitting both voice and Internet data from and to said Web Page user. See figure 8 lines 1-5.

Regarding claim 14, Petty discloses a method, wherein the step of using said Web Page user information data to locate the appropriate advertiser location further comprising the steps of:

(1) provide menu navigation prompts in place of the present day voice options as available (figures 3 and 4, col.11 lines 40-45);

(2) locate an idle advertiser agent using the menu navigational prompts prior to connecting the call to the Web Page user, (3) notifying said Web Page user of options if no advertiser agents are available such as "hang up and wait for callback from advertiser"; and

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(4) providing a voice and Internet data connection through said first and second gateways from advertisers ISP to said Web Page user ISP. See col.12 lines 15-20.

Regarding claim 7, Petty discloses a method of further comprising the steps of coupling an international LSAP to said MVoIP for connecting the international Web Page user CPE to an advertiser's CPE; and

providing voice and Internet data connections through said MVoIP from an advertiser's CPE to said Web Page user's international ISP by means of said telephone number. See col.6 line 40.

Regarding claims 9, 12, Petty discloses a method of bypassing the regulated toll portion of the Public Switching Telephone Network (PSTN) to establish voice communications between an Internet Web Page advertiser having a CPE coupled to an ISP and an Internet Web Page user having a CPE coupled to an ISP comprising the steps of:

establishing a Managed Voice-over-Internet Protocol (MVoIP) that is capable of bidirectional transmission of both voice and Internet Protocol data communications in parallel with said regulated portion of said PSTN;

browsing said Internet with a Web Page user CPE to locate an Internet advertised product/service having an associated telephone number (or correlating the Web Page to an IP address on the MVoIP); and

using said information to cause said MVoIP to establish both voice and Internet Protocol data communications between the location of said advertiser of

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said located product/services and said Web Page user through said ISP. See col.4 lines 1-45.

Regarding claims 10 and 11, Petty discloses a method of completing a telephone call between an Internet Calling Party having CPE coupled to a first ISP and an Internet Called Person having second CPE coupled to a second ISP comprising the steps of:

bypassing the regulated portion of the existing Public Switching Telephone Network (PSTN) telephone systems with an MVoIP network having carrier-grade voice quality and that is coupled between said Calling Party ISP and said Called Person ISP such that a voice conversation can take place between said Calling Party and said Called Person;

locating the name of the Called Person on the Internet with Calling Party CPE1 selecting the name of the Called Person from an Internet site using a cursor control; and

automatically enabling said MVoIP system to establish a voice connection between said Calling Party and said Called Person that bypasses the regulated portion of the PSTN toll network when the name of said Called Person is selected. See figures 6 and 7.

***Allowable Subject Matter***

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3. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant argues that Petty does not disclose Managed VoIP network. However, Examiner respectfully disagrees with the argument because Petty discloses VoIP gateway used for manage VoIP session, col.7 line 15.

Applicant argues that Petty does not disclose the VoIP for international user. However, Examiner respectfully disagrees with the argument because Petty discloses establishing VoIP related to World Wide Web site (international users), col.6 line 40.

Applicant argues that Petty does not disclose an email related to VoIP system. However, Examiner respectfully disagrees with the argument because Petty discloses ISP obtaining a user profile (including email) or email can be obtained from the text message used for managing VoIP, col.4 lines 15-20, and col.15 lines 15-20.

Applicant argues that Petty does not disclose a phone number or a white page directory stored in the server. However, Examiner respectfully disagrees with the argument because Petty discloses phone numbers of callers (white page) placed on the www page, figure 4.

5. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also



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discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., direct IP connections, toll charges, auto navigation, system integrate with call me) are not recited in the rejected claim(s) 3, 9, 10, 11, 13, 14. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

8. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (703) 308-4388. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu, can be reached on (703) 308-6602. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



STEVEN NGUYEN  
PRIMARY EXAMINER

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